

10/11/03



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,672	06/27/2003	Michael Paul Evans	RJENK11.001C1	8030
20995	7590	07/13/2006	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			ORGAD, EDAN	
			ART UNIT	PAPER NUMBER
			2618	

DATE MAILED: 07/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/607,672	Applicant(s) EVANS ET AL.	
	Examiner Edan Orgad	Art Unit 2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 23-34 is/are pending in the application.
- 4a) Of the above claim(s) 4-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 23-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Claims 4-22 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected group, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 4/24/06.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 3, it is not clear how the speech that is generated from data received is selectable by the user.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 23-29 and 31-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Erving et al (US 5,426,460).

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Regarding claim 1, Erving teaches a mobile communications terminal (320) adapted to generate graphical image data defining a facial image which is animated to simulate actions accompanying speech generated from data received via a radio interface, wherein the characteristics of the facial image are selectable by a user of the terminal (col. 3, lines 3-7 & lines 30-37).

Regarding claim 2, Erving teaches the selectable characteristics of the facial image comprise at least one of base facial style, skin color, hair color, eye color, and mouth size (col. 1, lines 63).

Regarding claim 3 (as best understood in view of the 112 2nd ¶ above), Erving teaches the characteristics of the speech are selectable by a user of the terminal (col. 3, lines 49-67; Erving discloses the user excitation is determined and defined).

Regarding claims 23 and 34, Erving teaches a multimedia client terminal (320) adapted to generate graphical image data defining a facial image which is animated to simulate actions accompanying speech (col. 3, lines 30-37) the terminal comprising: a receiver arranged to receive signals for processing by the terminal so as to retrieve data therein, said signals comprising text defining the speech to be spoken and command data defining animations to accompany said speech (col. 1, lines 46-63 & col. 3, lines 3-37). Erving further teaches a storage means for storing data defining vocal characteristics, data defining facial characteristics and data defining facial animations, and animated speech generating means responsive to said retrieved command data so as to select said facial animations and use said data defining vocal characteristics and said data defining facial characteristics to animate said speech (col. 4, line 51- col. 5, line 11).

Regarding claim 24, Erving teaches the animated speech generating means is arranged to present said animated speech in conjunction with a graphical display of a face animated in accordance with said selected facial animation (col. 1, lines 46-63 & col. 3, lines 3-37).

Regarding claim 25, Erving teaches the facial animations include a talk animation, a smile animation and/or a wink animation (col. 3, lines 3-7).

Regarding claim 26, Erving teaches the animated speech generating means is arranged to render the animated facial image in accordance with said facial characteristics (col. 1, lines 46-63 & col. 3, lines 3-37).

Regarding claim 27, Erving teaches including skin color and hair color (Erving's camera, inherently display 301 with facial image 307 display hair and skin color).

Regarding claim 28, Erving does not specifically disclose the vocal characteristics include voice gender, accent and language, however, it is inherent to Erving's speech animation that the gender, accent and language be determined.

Regarding claim 29, Erving teaches the signals comprise a multimedia document including a predetermined markup specifying a vocal style and/or a facial image and data defining facial animations (col. 3, lines 49-66).

Regarding claim 31, Erving teaches the animated speech generating means is arranged to select default facial characteristics and default vocal characteristics in response to reaching the end of the speech (col. 3, lines 3-7 & lines 15-65).

Regarding claim 32, Erving teaches the facial characteristics and vocal characteristics are selectable by a user of the terminal (col. 3, lines 3-7 & lines 15-6)

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Regarding claim 33, Erving teaches the terminal comprises a mobile communications terminal, and the receiver is arranged to receive said signals via a radio interface (col. 1, lines 46-63).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Erving et al (US 5,426,460).

Regarding claim 30, Erving fails to specifically disclose the multimedia document includes data identifying a start and an end of said speech. However, official notice is taken that including data identifying a start and an end for speech communication is well known in the art. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to include data identifying a start and an end of the speech with Erving visual multimedia in order to better manipulate the lips movement utilized by Erving

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edan Orgad whose telephone number is 571-272-7884. The examiner can normally be reached on 9:00AM to 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban can be reached on 571-272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EDAN ORGAD
PATENT EXAMINER/TELECOMM.

Edan Orgad 7/6/06